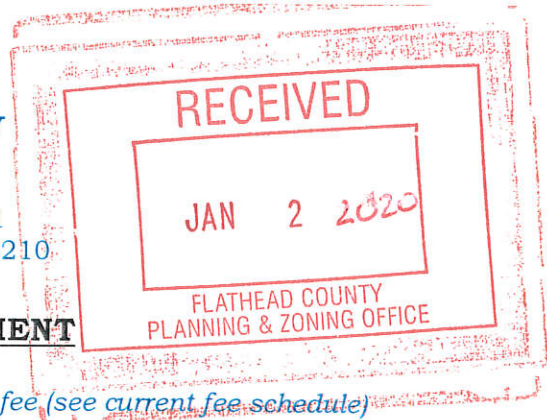




Flathead County
Planning & Zoning
1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



PETITION FOR ZONING AMENDMENT

Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$ 1089.00 + 75.00

APPLICANT/OWNER:

1. Name: RRN Holdings, LLC Attn: Rob R. Nesten Phone: (208) 631-6865
2. Mail Address: 10279 W. Calico St
3. City/State/Zip: Boise, ID 83709
- 4 Interest in property (if map amendment): Owner

Check which applies:



Map Amendment



Text Amendment:

TECHNICAL/PROFESSIONAL PARTICIPANTS:

1. Name: Sands Surveying Inc. Phone: (406) 755-6481
2. Mailing Address: 2 Village Loop
3. City, State, Zip: Kalispell, MT 59901
4. Email: eric@sandssurveying.com

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:

- A. What is the proposed zoning text/map amendment? N/A

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:

- A. Address of the property: Kings Way, Kalispell (No Address as of yet)
- B. Legal Description: Parcel a of COS 20810 (Assessor's Tract 3MA)
(Lot/Block of Subdivision or Tract #)

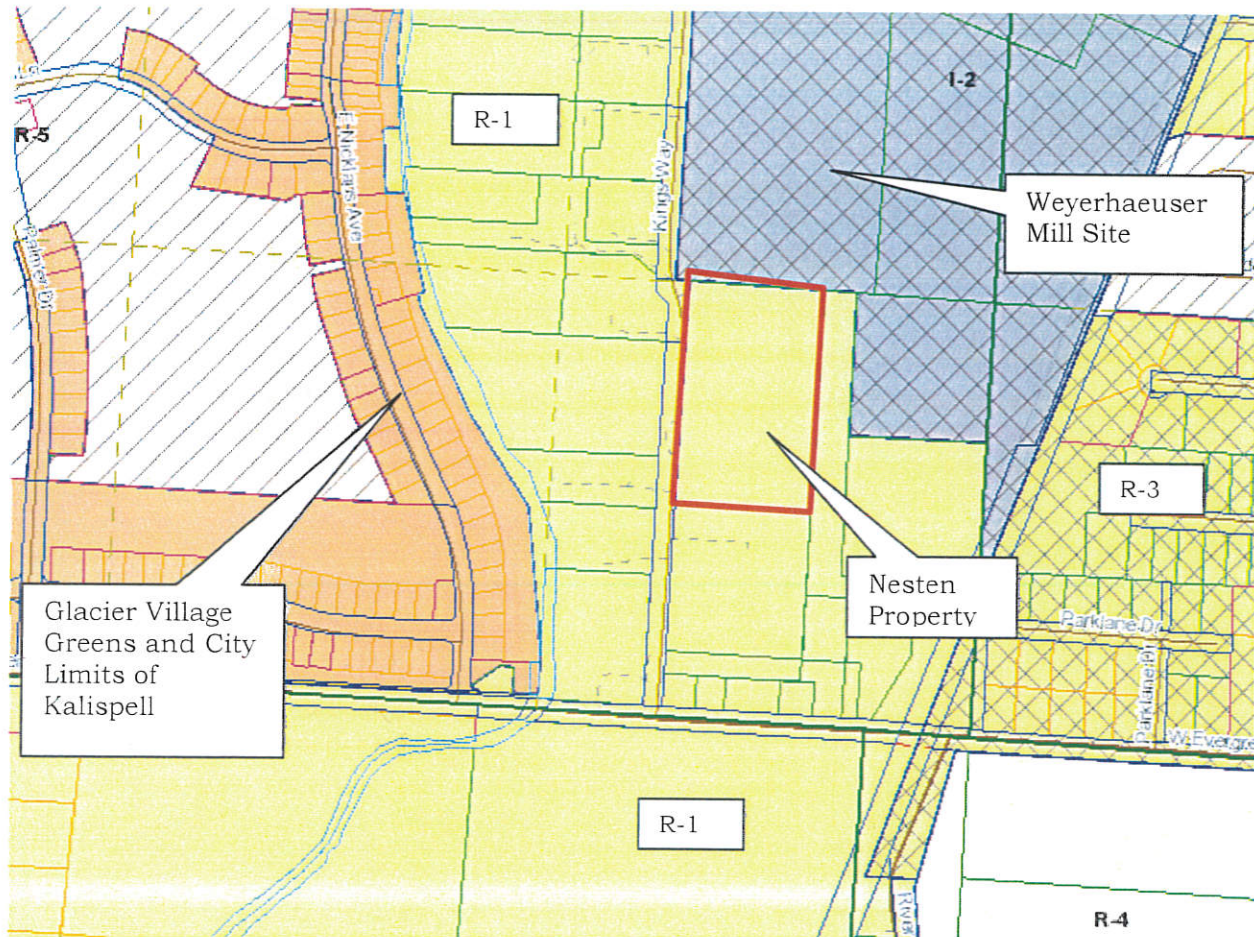
32 - T29N - R21W
Section Township Range

(Attach sheet for metes and bounds) See attached metes and bounds for the two zoning designations

- C. Total acreage: 6.47 acres.
- D. Zoning District: Evergreen Zoning District
- E. The present zoning of the above property is: R-1 (Suburban Residential)
- F. The proposed zoning of the above property is: R-3 (One-Family Residential)
- G. State the changed or changing conditions that make the proposed amendment necessary: The property is located on a vacant property that is bordered by

single family on the south and west and heavy industrial uses to the North and East. The R-1 with one acre lots reflects the original 1980's Evergreen zoning map which predated public water/sewer and the expansion of Kalispell.

Figure 1



Source: Flathead County GIS, Zoning Layer

THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.

1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?

Flathead County recognizes the Kalispell City County Master Plan as a Neighborhood Plan which fits under the umbrella of the Flathead County Growth Policy. The Flathead County Growth Policy is compliant with the Montana Code Annotated. As with the Master Plan, the proposed Zoning Amendment will not amend the text of the Flathead County Growth Policy.

The following provisions of the Kalispell City County Master Plan – 2010 that are applicable and compliant with said Plan.

Chapter 1

6. Land Use

g. Maintain the character of single family neighborhoods

The applicant previously proposed a multi-family residential zoning classification for this property. During the public hearing and in the following Planning Board discussion, preserving the existing single family neighborhood was almost unanimously voiced in the opposition to the multi-family zoning. The proposed R-3 is a single family zoning classification in the Flathead county zoning regulations but at the same time it is a more urban designation taking advantage of the public sewer and water facilities now available. Puiblic sewer and water was not available back in the 1980's when the zoning was established for Evergreen and its surroundings.

h. Concentrate medium and high density residential units in areas close to commercial services, good traffic access and open space specifically to provide efficient access to these amenities for the occupants and to provide a suitable buffer between commercial and high traffic areas and low density residential areas.

The subject property is located approximately 600 feet from West Evergreen Drive which is classified as a collector road by the County. There is a County Park at the end of Kings Way.

Chapter 5 Land Use

Urban Residential – ...A residential district which provides a gross density of two – eight units per acre. Such areas should be served by a community water and sewer system and have all other customary urban services including fire and police protection, garbage disposal and access to schools, parks, open space and major street system. Development would include single family and duplex housing, manufactured housing on individual lots and attached housing under a planned unit development concept where adequate open space is provided to compensate for the increased density. This district encompasses the heart of the residential community and is located throughout the urbanized area. Major growth areas are seen along West Evergreen Drive west of the Whitefish River, north of Kalispell along the west side of the Stillwater River and generally northwest of Kalispell.

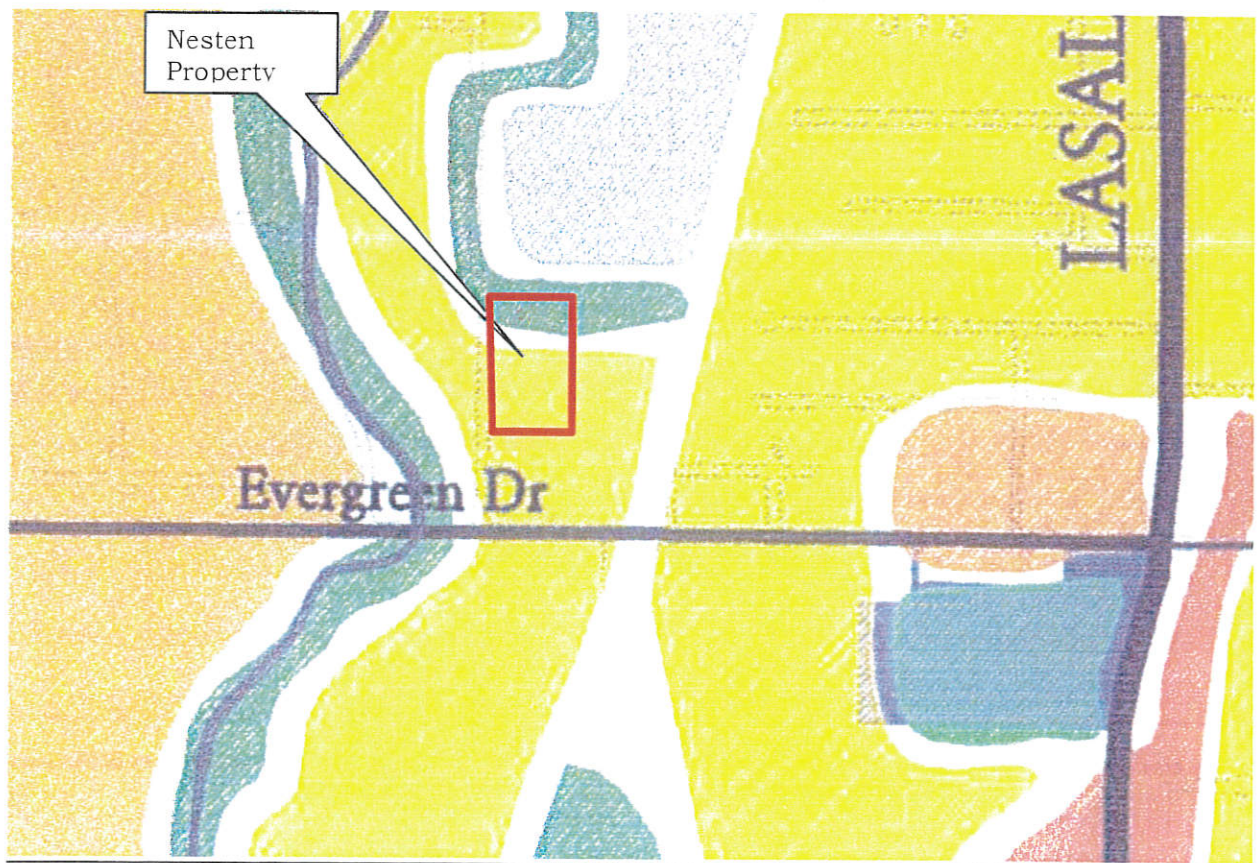
When this Kalispell Master Plan was adopted in 1986, there was no public sewer in the Evergreen Community and the Evergreen water system was a fair amount smaller. In 1986 there was far less commercial use along the Highway 2 corridor and the residential development reflected suburban residential densities. In the last 33 years since the plan was adopted Evergreen has grown into an urban community with commercial, residential and industrial uses. These uses create employment opportunities, housing, retail, and services for its residents and surrounding communities.

8. *Public Facilities*






a. *Designate areas of future development which are already serviced or are in areas which can be economically serviced by water and sewer systems, police and fire protection.*

Like the neighboring properties, the site is within the Evergreen Fire District and served by Flathead County Sheriff Office. The sites are currently served by Evergreen sewer and water.

Figure 2 Kalispell Master Plan Map Year 2010 (Dated 1986)



LEGEND

 SUBURBAN RESIDENTIAL
 URBAN RESIDENTIAL
 HIGH DENSITY RESIDENTIAL
 COMMERCIAL
 MEDICAL - PROFESSIONAL

 LIGHT INDUSTRIAL
 HEAVY INDUSTRIAL
 PUBLIC
 SCHOOL
 PARK / OPEN SPACE
 AG / SILVICULTURE

2. Is the proposed amendment designed to:

- a. Secure safety from fire and other dangers? The proposed action of the zone change will neither increase nor reduce the dangers of fire, panic, or other hazards. When the property is subdivided, the owner/developer will need to construct and pave the roads to County standards and install fire hydrants to meet the requirements of the Evergreen Fire Department.

The property is within the Evergreen Fire District, has access to the Evergreen Water system which provides fire flow to hydrants. The property is not within the Wildland Urban Interface. The property is served by Flathead County Sheriff's Office for police protection.

The property is not located in the 100-year floodplain, is not located in or near wetlands, and is not located on steep slopes.

- b. Promote public health, public safety and the general welfare? The property is directly accessed by Kings Way which is a paved County maintained road. The property is only 700 feet north of West Evergreen Drive which is a collector street serving the Evergreen community. The Flathead County Sheriff's Office provides police protection to Evergreen. The Evergreen Fire District provides fire service to the property. The property is served by Evergreen Water and Sewer infrastructure.

The proposed R-3 zoning designation is a single family residential zoning district very similar to the R-1 and R-2 neighboring lands. There are R-3 lands just east of the railroad tracks and the City of Kalispell has R-4 zoning just west of the Whitefish River.

- c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements? The 6.47 acre property accesses Kings Way and is only 700 feet north of West Evergreen Drive. West Evergreen Drive is a County maintained collector road that serves many of the residential neighborhoods in Evergreen. The property is served by Evergreen Water and Sewer infrastructure

The property is within the Evergreen/Flathead School District. If the developer creates 16 lots, the development could have up to five school aged children in the k-12 school system.

At present the property is vacant, future development plans will dictate whether or not park lands are needed. The closest public park is the County park at the end of Kings Way on the Whitefish River north of the subject property.

3. Does the proposed amendment consider:

- a. The reasonable provision of adequate light and air? The R-3 zoning classification requires setbacks of 20-feet front; 10-feet side, 20-feet on side corner; and 20-feet rear. The maximum height is 35-feet which is the same as the R-1 zone and the maximum lot coverage is 30%. . Lastly drainage will need to be addressed on site so that water leaves the site at the same rate or less than pre-development. Given the development constraints and requirements, the proposal will provide ample light and air.
- b. The effect on motorized and non-motorized transportation systems? As stated previously, the property has direct access to Kings Way which is a paved County maintained road and Kings Way exits onto West Evergreen Drive 700 feet south of the subject property. West Evergreen Drive is a paved County collector road. Currently there are no walking paths on either Kings Way or West Evergreen Drive. As a condition of approval for the Evergreen Estates subdivision, pedestrian access will be provided from the intersection of River Road and West Evergreen Drive to the Evergreen middle school. Kings Way is approximately 900 feet from that intersection.

- c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities? The subject property is located less than 1/4 of a mile from the Kalispell City limits to the west. To the north and east is the Weyerhaeuser Saw Mill which is zoned I-2 (Heavy Industrial). The Community of Evergreen is an unincorporated extension of Kalispell in that the commerce, schools, wastewater utilities, transportation routes move between the two entities in a seamless fashion. The proposed urban residential zoning classification of R-3 will provide the same land use type, single family detached residential as the neighboring residential uses. (Figure 1).
- d. The character of the district and its peculiar suitability for particular uses? The area around the subject parcel includes Weyerhaeuser Saw Mill, single family homes, Glacier Village Greens subdivision and golf course, and a manufactured home park. The proposed zoning will mimic the single family residential uses located along Kings Way, Glacier Village Greens, and other nearby neighborhoods (Figure 3).

Photo 1

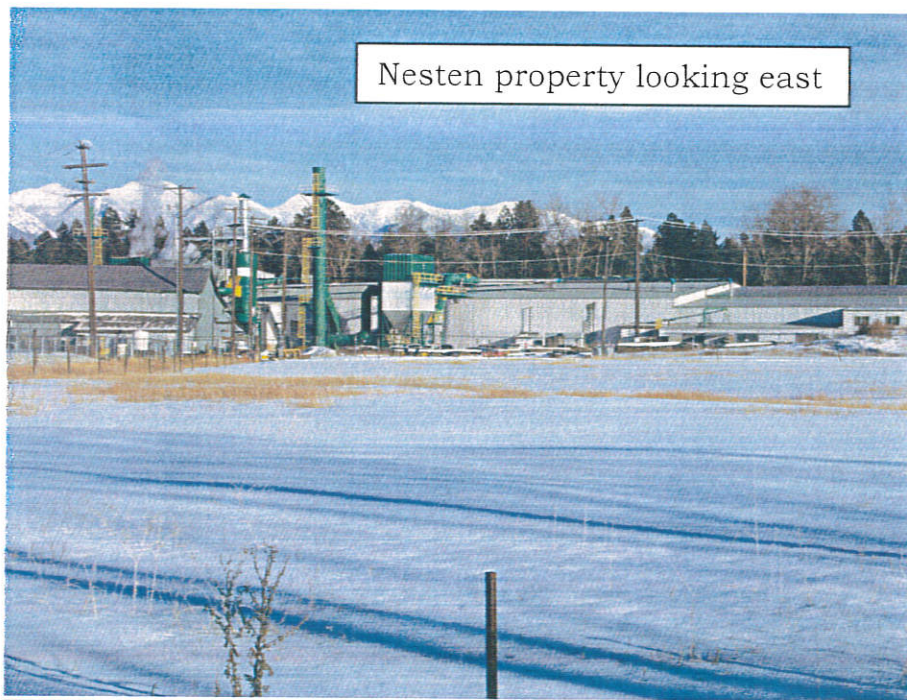


Photo 2

Nesten Property looking
south



Photo 3

Nesten property looking
North



Photo4

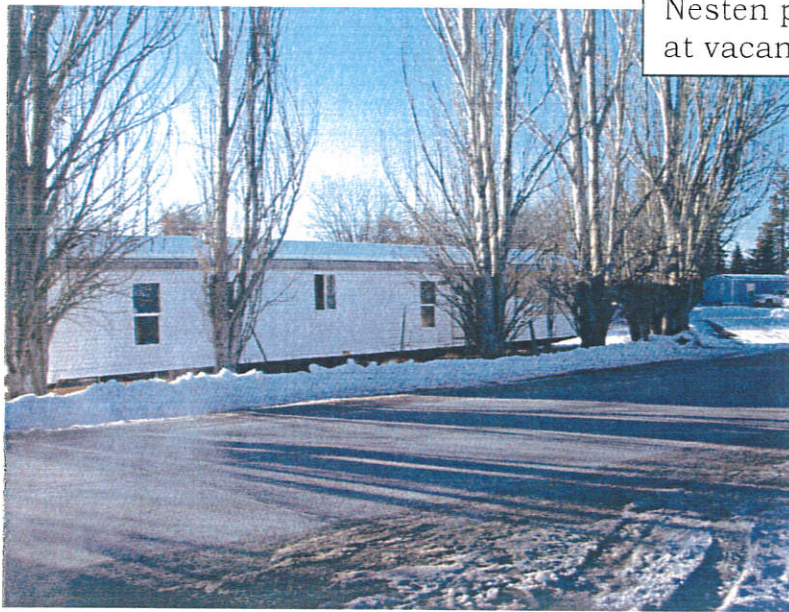
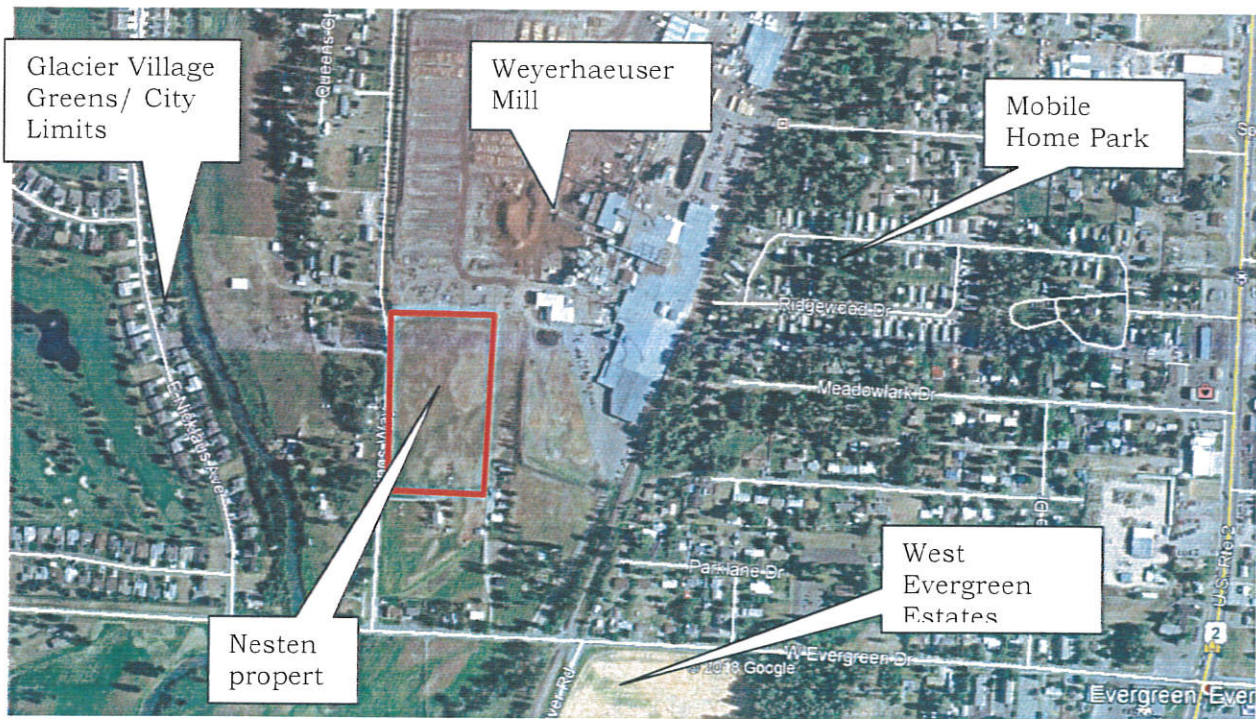


Figure 3



Source: Google Earth –.

Considering the provisions of Spot Zoning and the “Three Part Test” as provided by legal precedent in Little vs. Board of County Commissioners. Spot Zoning is determined by the Court to be an illegal action if the request is found to meet **all** three of the tests. The three tests are as follows:

- i. The zoning allows a use that differs significantly from the prevailing use in the area.

Adjacent zoning consist of I-2 (Heavy Industrial), R-1 (Suburban Residential), R-4 (Residential- Kalispell) and R-3 (One-Family Residential), and R-5 (Two-Family Residential). The existing zoning is a mix of urban residential uses and the heavy industrial. There is no real uniformity to the density other than most all of the residential use is single family and the proposed R-3 is a single family residential zoning classification.

- ii. The zoning applies to a small area or benefits a small number of separate landowners.

The proposed zone change applies to only 6.4 acres but it is ideally located in an area of mixed density single family residential uses. The proposed R-3 is very similar to the existing R-1, R-2 to the north and west and the same as the R-3 on the east side of the railroad tracks. If there is similar and matching zoning designations in the neighborhood then the application cannot be benefiting this one landowner at the detriment to others.

- iii. The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and this is in the nature of special legislation.

The application is for a single landowner but this application is for a single family residential zoning classification that is similar or the same as neighboring residential zones. Therefore this cannot be considered special legislation.

The proposed zone change application does not meet the three tests for "spot zoning" and therefore should be considered a legal request.

- e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area? The applicant has the option of subdividing the six acre parcel into six single family lots with the existing R-1 zone. As stated previously the applicant had requested a

multi-family zoning designation earlier this year. The neighborhood attended the hearing and voiced opposition to the multi-family zoning citing that this is a single family neighborhood and that the applicant should proposed a single family detached subdivision. The proposed R-3 is a single family detached residential zoning district and would appear to meet the desire of the neighboring property owners.

4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The subject property is located approximately 1/4 of a mile east of the Kalispell City Limits (Glacier Village Greens) which allows two unit townhomes as a permitted use. On the other side (west) of Glacier Village Greens is the office complex that is zoned RA-2 (Residential Apartment/Office) which allows both apartments and office buildings. It would appear that utilizing the County R-3 as an urban residential use is consistent with the urban densities of the City.

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.

21 Dec. 2019
[Signature]
Owner/Applicant Signature(s) Date

JAN 02 2020

* * * * *

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.

Owner/Applicant Signature(s)

Date

JAN 02 2020

APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A pre-application meeting is highly recommended. This can be scheduled at no cost by contacting the Planning & Zoning office. Among topics to be discussed are: Master Plan compatibility with the application, compatibility of proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application.

C. Application fee.

D. The application must be accepted as complete by the Flathead County Planning & Zoning staff prior to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

APPLICABLE TO APPLICATIONS FOR ZONE CHANGE:

A. Application Contents:

1. Completed Zone Change application, including signatures of all property owners applying for zoning map amendment.

IF this is a **MAP** amendment the following are also required:

- i) A map showing the location and boundaries of the property (*vicinity map*).
- ii) A Title Report of the subject property
- iii) **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.